

2009 Jul-13 PM 04:08
U.S. DISTRICT COURT
N.D. OF ALABAMA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

TRACI L. JONES,

Plaintiff,

V.

**FREEDOM RAIN, TLC and
BRENDA SPAHN,
Defendants.**

CIVIL ACTION NUMBER:

CV-08-CV-01599-KOB

DEFENDANTS' SUMMARY JUDGMENT MOTION

Come Now Defendants Freedom Rain and Brenda Spahn pursuant to Rule 56 and move for entry of a Summary Judgment. As grounds, the Defendants state:

1. The pleadings and evidentiary materials filed in support of this Motion demonstrate that there is no genuine issue as to any fact material to the issue whether the Defendants were subject to the overtime provisions of the Fair Labor Standards Act with respect to the Plaintiff.

2. The pleadings and evidentiary materials filed in support of this Motion demonstrate that, as a matter of law, the Plaintiff cannot sustain her burden of proof that she was engaged in interstate commerce or in the production of goods for interstate commerce during the time that the Plaintiff worked at the Lovelady Center while employed by Defendant Freedom Rain.

3. The pleadings and evidentiary materials filed in support of this Motion demonstrate that, as a matter of law, the Plaintiff cannot sustain her burden of proof that the Lovelady Center is an enterprise engaged in interstate commerce or in the production of goods for interstate commerce.

4. In support of this motion, the Defendants submit: (a) the affidavit of Brenda Lovelady Spahn, (b) the affidavit of Melinda McGahee and attached exhibits, (c) the transcript excerpts from the deposition of Defendant Brenda Lovelady Spahn; and (d) a brief containing, in separately identified sections, a statement of undisputed relevant material facts, a discussion of the relevant legal authorities and copies of the above-described evidentiary materials.

Wherefore, Defendants pray that this Court will enter an Order granting a Summary Judgment.

Respectfully submitted,

s/ David R. Donaldson

David R. Donaldson (DON 010)

DONALDSON & GUIN, LLC

505 20th Street North, Suite 1000

Birmingham, Alabama 35203

Telephone: (205) 226-2282

Facsimile: (205) 226-2357

Email: DavidD@dglawfirm.com

Attorneys for the Defendants, Freedom Rain
and Brenda Spahn

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of July, 2009, the foregoing document has been filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Thomas F. Talty
Thomas Talty & Associates
2015 First Avenue North
Birmingham, AL 35203

s/ David R. Donaldson
OF COUNSEL